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| 10/581,872 | 06/05/2006 | Ralph G. Jelic | 33258/US/3 | 3930 |

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INTELLECTUAL PROPERTY DEPARTMENT
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DENVER, CO 80202-5647

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| EXAMINER |
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RAMSEY, JEREMY C

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| ART UNIT | PAPER NUMBER |
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3634

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02/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/581,872 | Applicant(s) JELIC ET AL. | |
| | Examiner JEREMY C. RAMSEY | Art Unit 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-20,22,23,25,26,28,29 and 40-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,24,27,30-39,47 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05 JUN 06, 25 JUL 06, 28 JUL 06, 19 FEB 08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 1-20, 22, 23,25,26,28,29 and 40-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/17/2008.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Roy Re. 22,311.

4. In re claims 21,41, 47 and 48, with reference to Figures 1 and 2, Roy '311 discloses a fabric for use in covering a building structure comprising:

- A flexible vertically extending support structure (30).
- A plurality of parallel elongated vanes (26) supported at spaced locations along the support structure (30), said vanes comprising semi-rigid slats secured to the support structure to form an acute angle, wherein movement of said vanes is totally dependent on movement of the support structure (30).

- Wherein the support structure includes a plurality of flexible generally vertical extending elements wherein said elements are cords.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy Re. 22311 in view of Colson 5,129,440.

7. In re claim 24, the fabric of Roy '311 has been discussed above but fails to disclose:

- The slats have a cross sectional shape similar to half a tear drop.

8. With reference to Figure 5, Colson '440 discloses:

- The slats (6) have a cross sectional shape similar to half a tear drop.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the slats have the shape of half a tear drop since such a modification would have involved a mere change in the shape of a component.

Changes in size or shape without special functional significance are not patentable.

Research Corp.v. Nasco Industries, Inc., 501 F2d 358; 182 USPQ 449 (CA 7) cert.

Denied 184 USPQ 193; 43 USLW 3359 (1974) and this shape is known in the art for lat shapes.

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9. Claims 27, 35 -39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy Re. 22311 in view of Strand et al 7,143,802.

10. In re claims 27 and, the fabric of Roy '311 has been discussed above but fails to disclose:

- A second fabric vertically aligned and connected to the first fabric.

11. With reference to Figure 51B, Strand et al '802 discloses:

- A second fabric (4154") vertically aligned and connected to the first fabric (4154').

12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second fabric vertically aligned with the first so that the fabrics can be operated independently of one another as well as have different properties. (Column 23, lines 4-18)

13. In re claims 36-39, Roy/Strand et al discloses:

- An upper movable rail (4159') and a lower movable rail (4158') and control means (spring motor not shown, column 23 lines 12-14 and (4134')(4135')) for independently moving said rails.
- Wherein said fabric has upper and lower edges and includes lift cords (4134')(4135') and cords are anchored to the top edge.
- Wherein the control system includes cords anchored to the top edge for moving the top edge toward the bottom edge. (Figure 4, Roy)

14. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy Re. 22311 in view of Cohen 5,632,316.

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15. In re claims 30 and 34, Roy '311 discloses:

- Wherein the fabric is in a frame and has a top edge and bottom edge, said bottom edge in a fixed position and the top edge is vertically movable.

(Figure 4)

16. Roy '311 fails to disclose:

- The fabric is non-quadrangular.
- The fabric is triangular.
- The fabric is semicircular.
- The fabric has a second semicircular fabric inverted so as to form a circle.
- The fabric has a semi-circular top edge.

17. With reference to Figure 5, Cohen '316 discloses:

- The fabric is non-quadrangular.
- The fabric has a semi-circular top edge.

18. It would have been obvious to one having ordinary skill in the art at the time the invention was made, that the fabric could be non-quadrangular or have a semi-circular top as taught by Cohen '316 in order to fit a window of a particular shape.

It further would have been obvious to one having ordinary skill in the art to make the fabric triangular, semicircular or include a second inverted semicircular fabric to form a circle since such a modification would have involved a mere change in the shape of a component. Changes in size or shape without special functional significance are not patentable. *Research Corp.v. Nasco Industries, Inc.*, 501 F2d 358; 182 USPQ 449 (CA

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7) *cert. Denied 184 USPQ 193; 43 USLW 3359 (1974)*. Cohen clearly teaches it is known to make a blind into various shapes depending on the shape of the window.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Corey 6,006,812, Colson et al 5,503,210, Hong 5,409,050, Nien 6,675,859, Allison 2,118,134, and Renton 2,318,525.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY C. RAMSEY whose telephone number is (571)270-3133. The examiner can normally be reached on Monday-Friday 6:30 am-4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

/Jeremy C Ramsey/
Examiner, Art Unit 3634